



STATE OF NEW JERSEY

Board of Public Utilities

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Newark, NJ 07102

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Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
455 12th Street, SW Portals II Building
Washington DC 20544

Re: In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local
Exchange Carriers
CC Docket No. 01-338

Implementation of the Local Competition Provisions of the Telecommunications Act of
1996
CC Docket No. 96-98

Deployment of Wireline Services Offering Advanced Telecommunications Capability
CC Docket No. 98-147

Reply Comments of the New Jersey Board of Public Utilities

Dear Ms. Dortch:

The New Jersey Board of Public Utilities respectfully submits these reply comments in response to the Notice of Proposed Rulemaking issued by the Federal Communications Commission ("Commission") in the above-captioned proceeding. Because of the critical impact this proceeding may have on existing policy initiatives in our State, this Board feels compelled to endorse the spirit of NARUC's comments in this docket. The Board urges the Commission to preserve State authority to adopt and respond to specific local market conditions. Specifically, we wish to assure that this State retains the authority to impose additional unbundling obligations upon incumbent LECs beyond those imposed by the national list, as long as they meet the requirements of § 251.

Specifically, we urge the Commission to consider the following:

- (1) A Joint Conference is in the Public Interest: Given the critical role played by State regulators in implementing the statutory UNE regime, as well as the intensive data and State specific nature of the three-year review, the FCC should establish a formal mechanism to secure the State participation necessary for an informed application of the statutory "necessary" and "impair" standards.

- (2) State Authority To Add New UNEs/Obligations: We agree with the FCC findings that § 251(d) (3) of the 1996 Act grants State commissions the authority to impose additional obligations upon incumbent LECs beyond those imposed by the national list, as long as they meet the requirements of § 251. We believe Congressional intent, as outlined in the 1996 federal statute, existing State enabling statutes, and the FCC rules and prior findings in this and related dockets support this approach.
- (3) Impact of Federal Minimum List: As recognized implicitly in the UNE Remand Order's specific State authority findings, the States are better positioned to conduct a detailed review of additional unbundling that is appropriate for local market conditions. Consequently, the FCC should defer to State determinations of whether unbundling requirements in any State should collapse to the existing or new federal minimums. Assuming any new federal minimum removes one or more UNEs from the national list or restricts availability of any UNE, such limitations should not apply in any State unless that State first determines that a competitor's access is "necessary" or whether lack of access "would impair" that competitor's ability to offer services, or is required as a matter of State rule or statute.
- (4) Impact of Federal Action on UNE-P: The FCC should support the availability of the UNE-P on the basis that one form of entry should not be favored over another. Specifically, the FCC should assure that its implementation of § 251 does not favor one method of entry, at the expense of other methods of entry.

We urge the FCC to be responsive to these requests and appreciate the opportunity to make our views known.

DATED: June 5, 2002

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BY:

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